

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE NORTHERN DISTRICT OF CALIFORNIA

3  
4 STEVEN WAYNE BONILLA, No. C 12-4894 CW (PR)

5 Plaintiff,

6 v.

7 UNITED STATES DEPARTMENT OF  
8 JUSTICE, FEDERAL BUREAU OF  
INVESTIGATION,

9 Defendants.

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11 STEVEN WAYNE BONILLA, No. C 12-5090 CW (PR)

12 Plaintiff,

13 v.

14 SUPERIOR COURT OF ALAMEDA  
COUNTY, JEFFREY W. HORNER,

15 Defendants.

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16  
17 STEVEN WAYNE BONILLA, No. C 12-5091 CW (PR)

18 Plaintiff,

19 v.

20 UNITED STATES DEPARTMENT OF  
JUSTICE, FEDERAL BUREAU OF  
INVESTIGATION,

21 Defendants.

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ORDER DENYING LEAVE TO  
PROCEED IN FORMA  
PAUPERIS; DISMISSING  
ACTIONS; TERMINATING ALL  
PENDING MOTIONS;  
DIRECTING CLERK TO FILE  
COPY OF ORDER IN C 08-  
0471 CW

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23  
24 Plaintiff, a state prisoner proceeding pro se, seeks leave to  
25 proceed in forma pauperis (IFP) in these three civil actions. The  
Court previously informed Plaintiff that, in accordance with 28  
26 U.S.C. § 1915(g), he no longer qualifies to proceed IFP in any  
27 civil action he files in this Court. See In re Steven Bonilla,  
28 Nos. C 11-3180, et seq. CW (PR), Order of Dismissal at 6:23-7:19.

1 The sole exception to this restriction is that Plaintiff may  
2 proceed IFP if he "is under imminent danger of serious physical  
3 injury." 28 U.S.C. § 1915(g). The plain language of the imminent  
4 danger clause in § 1915(g) indicates that "imminent danger" is to  
5 be assessed at the time of filing of the complaint. See Andrews v.  
6 Cervantes, 493 F.3d 1047, 1053 (9th Cir. 2007).

7 Here, Plaintiff has not alleged facts that show he was in  
8 imminent danger of serious physical injury at the time he filed  
9 these complaints. Rather, in cases C 12-4894 and C 12-5091,  
10 Plaintiff complains that the Department of Justice and the Federal  
11 Bureau of Investigation have denied his FOIA request for documents  
12 pertinent to challenging the validity of his criminal conviction.  
13 He seeks a ruling from this Court requiring that he be provided  
14 with the documents. In case C 12-5090, he complains that the judge  
15 who presided over his criminal trial wrongly denied his request for  
16 exculpatory evidence from the prosecution. He seeks a ruling from  
17 this Court that the judge's ruling denied him a fair trial.

18 The fact that Plaintiff has been sentenced to death does not,  
19 at this time, satisfy the imminent danger requirement. He is not in  
20 imminent danger of execution because this Court has entered a stay  
21 of execution in his pending federal habeas corpus action. See  
22 Bonilla v. Ayers, No. C 08-0471 CW (PR), Docket no. 3.

23 Further, the relief Plaintiff seeks in these cases pertains  
24 solely to his ongoing attempts to invalidate his conviction.  
25 Therefore, such claims, if raised, must be brought by appointed  
26 counsel in Plaintiff's pending federal habeas corpus action.

27 Accordingly, for the foregoing reasons, Plaintiff's requests  
28 to proceed IFP are DENIED and these actions are hereby DISMISSED.

1       The Clerk of the Court shall terminate all pending motions,  
2 enter judgment and close the files.

3       The Clerk shall file a copy of this Order in C 08-0471 CW.

4       IT IS SO ORDERED.

5 DATED: 11/8/2012

  
CLAUDIA WILKEN  
United States District Judge